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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,807	02/19/2002	Norbert Ehmer	10543-028	2615

7590 10/10/2003

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EXAMINER
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HERNANDEZ, OLGA

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/914,807

Applicant(s)

EHMER ET AL.

Examiner

Olga Hernandez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 19-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/4/3 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 8/4/03 have been fully considered but they are not persuasive. The applicant has submitted new set of claims. however, the new claims have 112 problems. See the action below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 19, the method is not supported by any step. How do you relate the preamble of the claim with the steps?

As per claims 21-23, it is unclear what is stated by the applicant.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 19, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun (6,398,318).

As per claim 19, Braun teaches a diagonal axle twist is detected and evaluated as a regulating variable (abstract). Braun teaches all the components of a diagonal twisted axle; therefore, it would have been obvious to one of ordinary skill in the art that detecting and evaluating the components of diagonal twisted axle is detecting and evaluating the diagonal twisted axle.

As per claims 26 and 27, Braun does not teach the evaluating step performed only at one condition. Braun teaches the evaluation step performed all the time. However, it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. In re Karlson, 136 USPQ 184.

6. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun (6,398,318) in view of Eckert et al (5,862,503).

As per claim 24, Braun does not teach the brake pressure level is set at the wheel brakes of the controlled wheels with a minimum traction slip, corresponding to the required traction. However, Eckert teaches the brake pressure level is set at the wheel brakes of the controlled wheels with a minimum traction slip, corresponding to the required traction (column 29, lines 22-32). Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to prevent any driving stability control from becoming impossible in the case of a failure of a part of the sensor.

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As per claim 25, Braun does not teach reducing the slip control system. However, Eckert teaches it in column 27, lines 25-34. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to prevent any driving stability control from becoming impossible in the case of a failure of a part of the sensor.

7. Claims 28, 30-41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert et al (5,862,503).

As per claims 28, 40 and 41, Eckert teaches a traction slip control system (abstract); detecting measured changes in the rotating behavior of a set of driven wheels (column 1, lines 15-29 and column 27, lines 26-34). Eckert does not teach an all-wheel drive system. However, it would have been obvious to one of ordinary skill in the art to use the all-wheel drive system in order to improve the stability of the vehicle.

As per claims 30, 31, 33 and 34, it would have been obvious to one of ordinary skill in the art to choose wheels to compare, because it depends on the user selection.

As per claim 32, Braun does not teach the step performed at one condition. Braun teaches the step performed all the time. However, it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. In re Karlson, 136 USPQ 184.

As per claims 36 and 37, it would have been obvious to one of ordinary skill in the art to have a period of time, because it depends on the user selection.

As per claims 35 and 38, it would have been obvious to one of ordinary skill in the art to have a limit value, because it depends on the user selection.

As per claim 39, it would have been obvious to one of ordinary skill in the art to activate the traction at the wheel, because there is where the traction is needed and used.

As per claim 42, it has been held that the recitation that an element is "**capable of**" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckert et al (5,862,503) in view of Braun (6,398,318).

As per claim 29, Eckert does not teach determining whether the slip is greater than a specific value. However, Braun teaches it in column 11, lines 10-25. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned inventions in order to prevent any driving stability control from becoming impossible in the case of a failure of a part of the sensor.

9. Claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Braun (6,398,318) in view of Kramer et al (6,314,342).

As per claim 20, Braun does not teach at least a partial lock of a differential within the vehicle. However, Kramer teaches it in column 6, line 58. Therefore, it would have been obvious to one of ordinary skill in the art to combine the aforementioned references in order to optimize the effectiveness of a vehicle's various control systems based on the critical dynamics of the particular vehicle.

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***Claim Objections***

10. Claim 41 is objected to because of the following informalities: it has a grammatical error in line 3 after "evaluating the". Appropriate correction is required.

11. Claim 35 is objected to because of the following informalities: it has a grammatical error in line 3 after "wheel on said". Appropriate correction is required.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

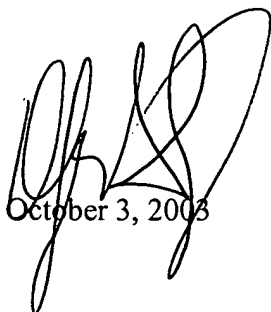
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is (703) 305-0918. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



October 3, 2003

Olga Hernandez  
Examiner  
Art Unit 3661



WILLIAM A. CUCHLINSKI, JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600